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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/043, 406 03/18/98 O'BRIEN

P 36-1148

EXAMINER

TM02/1218

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ART UNIT

PAPER NUMBER

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Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No. 09/043,406	Applicant(s) O'Brien
Examiner Akiba Robinson-Boyce	Group Art Unit 2163



Responsive to communication(s) filed on Nov 13, 2000

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claims

Claim(s) 1-49 is/are pending in the application.

Of the above, claim(s) 1-3 and 21 is/are withdrawn from consideration. *Cancelled 1.18.*

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 4-20 and 22-49 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## **DETAILED ACTION**

### ***Continued Prosecution Application***

1. The request filed on 11/13/00 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/043406 is acceptable and a CPA has been established. An action on the CPA follows.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 4-20, 22-49 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Babayev, et al (US Patent 5,615,121).

As per claims 4-6, 10, 15 , 18, 19, 22, 23-25, 27-30, 34, 37, 38, 39, 40, 42, 43, 45, 46, 47, 48, 49, Babayev, et al discloses:

an input.../receiving a request.../receiving a service request...(Col. 14, lines 35-40);

a response output.../outputting from said service provider.../an output for providing a response to the service request.../providing a response to the service request...(Col. 1, lines 7-9, Col. 14, lines 55-57);

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processing means.../wherein each of said systems is associated with a plurality of organisations, each of said systems having processing means.../service request processing means.../processing the service request.../wherein the service request is processed by accessing one or more of the previously...(Col. 2, lines 28-30, Col. 14, lines 58-64, Col. 12, lines 47-48, Col 13, lines 20-24);

means to access an up-date table.../an up-datable data store.../wherein the processing means is adapted to process a service request by accessing one or more of the previously established.../accessing an up-datable data store.../storing data relating to the services offered.../accessing the stored data.../identifying component processes for use in provisioning.../establishing conditions.../provisioning a selected set of component processes.../said negotiation establishes and stores a set of conditions...(Col. 6, lines 36-44, Col. 15, lines 41-48);

transmitting said information to said entities...(Col. 8, lines 50-56);

means for scheduling tasks/resources.../scheduling tasks/resources.../further comprising scheduling resource(s) for use necessary to provide a service...(Col. 16, lines 9-14);

wherein the processing means is adapted, in response to failure/inability...to:

reschedule...(Col. 9, lines 54-60);

transmit a message...(Col. 9, line 60-Col. 10, line 2);

relocate the service with another service...(Col. 10, lines 4-15, Col. 15, lines 57-67).

wherein the way in which the processing means is adapted to...

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process a service request by accessing one or more parameters in the data store...processing the request using the one or more.../initiating one or more component processes.../a service request is processed by accessing the stored set of conditions...(Col. 6, lines 36-52);

producing a response at the output...sufficient capacity is available...insufficient capacity is available...sufficient capacity is available to provide the service if modified.../controlling one or more resources in the environment available for use by said service provider, wherein the processing determines the nature of said response...(Col. 8, lines 36-44).

a request output connected to distributed processing environment for requesting a component service from another entity...(Col. 2, lines 41-47).

means arranged to provide more than one instance of a service.../providing more than one instance of a service...(Col. 15, lines 57-67).

wherein the plural systems are connected by a communications network....(Col. 14, lines 35-40, Col. 1, lines 7-9, Col. 14, lines 55-57, [input/output means]);

negotiating means.../initiating the negotiating to reopen negotiation...(Col. 2, lines 11-47);

wherein one or more of said established conditions has an associated expiry time...(Col. 1, lines 7-10);

wherein the processing means is adapted:

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to detect an expired or undefined condition...to trigger the negotiation means.../an expired or unidentified condition is detected in the data store...a substitute condition is established...(Col. 7, lines 15-22 and lines 37-54, [condition is not met]).

initiation means....(Col. 2, line 57-Col. 3, line 11).

provisioning a requested service requires provision of a selected set of component processes...(Fig.'s 2A-2E);

the negotiating means establishes and stores a set of conditions...(Col. 6, lines 36-44);

The following is inherent with Babayev, et al's system because Babayev, et al's system discloses a set of constraints and conditions which need to be met in order to create a schedule. These constraints are stored as data structures and contract is nothing more than a representation of certain conditions which must be met;

wherein, in the event a service provider and a service requester agree a contract to provide and accept a service respectively, a copy of the contract is stored as a data structure...

As per claim 7, 31, Babayev, et al discloses:

comprising a control output connected by said distributed processing environment...(Fig. 2A, [120]);

As per claim 8, 32, Babayev, et al discloses:

wherein the processing means is adapted to receive data from the tasks...(Col. 10, lines 4-11).

As per claim 9, 33, Babayev, et al discloses:

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wherein said data includes task/resource performance...(Col. 2, lines 37-40).

As per claim 11, 35, 13, 14, 26, Babayev, et al discloses:

means for accessing one or more resources available.../using a programed computer to negotiate.../further comprising means to schedule resource(s) for use by the system necessary to provide a service.../further comprising means to initiate the negotiating.../further comprises initiation means...(Col. 2, line 57-Col. 3, line 11);

said negotiating means including a data store...(Col. 6, lines 36-52).

As per claim 12, 36, Babayev, et al discloses:

means to update said data about said system...(Col. 16, lines 32-40).

As per claim 16, 17, 41, Babayev, et al discloses:

a data store.../means to access said data store...(Col. 15, lines 41-48);

means to transmit.../wherein said means to transmit are operable in the absence of a specific request...(Col. 9, line 60-Col. 10, line 2).

As per claim 20, 44, Babayev, et al discloses:

wherein said virtual organisation exists for a pre-determined period...(Col. 13, lines 28-31).

### *Conclusion*

4. An inquiry concerning this communication or earlier communications from the examiner should be directed to Akiba Robinson-Boyce whose telephone number is (703) 305-1340. The examiner can normally be reached on Monday-Friday from 6:30AM-3:00 PM EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3988.

An inquiry of a general nature or relating to the status of this application proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

**Akiba Robinson-Boyce**

**Patent Examiner**

**Group Art Unit 2765**

**December 11, 2000**



TARIQ R. HAFIZ  
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